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Atty. Docket No. 52484.002

Applicants herein below traverse each and all of the examiner's rejections and objections and submits that the pending claims, as amended, are novel over the prior art of record and in form for allowance. For the following reasons, Applicants request that the examiner reconsider and withdraw the rejections and issue an early notice of allowance.

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Drawings Objections & Rejections to Claims 9, 16, & 24 under 35 U.S.C. § 112

Applicants gratefully acknowledge the examiner's objections to the drawings and rejections of Claims 9, 16, and 24 on page 2, paragraphs 1 through 4 of the office action, wherein the examiner in sum perceives a missing antecedent basis for the "storage holder" element
10 recited by Applicant in each of Claims 9, 16, and 24. In response, Applicants remind the examiner that the invention is explicated to those having skill in the relevant arts, who should be able to comprehend that Applicants' claimed "storage holder" element is illustrated in FIG. 2 and is described in detail on page 18, lines 9 through 16. Here, those having ordinary skill in the art are taught by Applicants that:

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*Any of the preceding configurations and embodiments may also be adapted to include a means for attaching the releasably engagable retainer assembly 205 to the apparatus 100 when not in use. One such embodiment may include retainer bolt recesses formed into the hammer stop 150 in which the retainer bolts 210 may be secured when
20 the apparatus is not in use, as illustrated in FIG. 2. Additional embodiments may include retainer bolt recesses in the hammer 120, interchangeable rotor securing tool 170, or the device support*

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*extension 145. Similar attachment means may be incorporated into
the flexible adjustable retainer device 220 embodiments.*

(Underlining emphasis added here to amplify support for 'storage holder').

Nevertheless, to improve the readability of the drawings and the disclosure of the

5 invention so as to address the examiner's noted objections and rejections, Applicants avoid
introducing any new subject matter while amending the specification to conform the written
description to incorporate the "storage holder" language used in Claims 9, 16, and 24.

Applicants also include with this responsive Amendment a proposed correction to FIG. 2 that
includes a new reference numeral "207" to more particularly point out the claimed element.

10 In view of Applicants' explanation and amendments to more clearly illustrate that which
is claimed, Applicants submit that the examiner's objections to the drawings and rejections of
Claims 9, 16, and 24 are now improper and should be withdrawn.

Rejections to Claims 1, 2, 5-7, and 17-22 under 35 U.S.C. §102 as Anticipated by Barlett '968

15 The examiner next rejects the noted claims on the grounds that Barlett '968 recites each
and every element as claimed by Applicants. Applicants respectfully traverse these rejections
and demonstrate that Barlett '968 fails to disclose one or more elements claimed by Applicants
as follows:

Applicants' Claim 1 is directed to, among other elements,

20 *An automotive wheel assembly removal apparatus adapted
to be connected to a rim mounting surface of an automotive wheel
assembly and operative to remove the wheel assembly from a
vehicle chassis, comprising:*

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5 *a slide hammer assembly for creating an operational
impact load and incorporating a hammer secured to a hollow slide
tube received on a slide shaft, the slide shaft having a distal
hammer stop and being formed with a support extension projecting
from the stop, the slide shaft also being formed at a proximal end
with a coupler; and*

10 *an interchangeable rotor securing tool releasably mounted
to the coupler and formed with a plurality of engagement hole
patterns, each of the patterns including at least two respective
engagement holes that are adapted to receive at least two
engagement members. (Underlining emphasis added by Applicant
here for purposes of amplification).*

15 In contrast, those skilled in the art ought to understand that Barlett's '968 assemblies are
all limited to use with lawn mower type engine assemblies, which dictate lighter weight slide
hammers that cannot be used in the automotive repair field. More specifically, since the Barlett
'968 type devices do not comprehend use in the automotive field, they do not teach, suggest, or
motivate those skilled in the art to incorporate, among other new and novel features of
Applicants' invention, the claimed support extension. In view of Applicants' described and
contemplated uses and capabilities, Applicants' devices are necessarily more capable and robust,
20 which requires several additional features heretofor unknown to and unavailable in the art.

25 As those skilled in the art should be able to further understand, as a result of Applicants'
more capable robust construction, the claimed support extension, among features and elements,
is needed and or highly desirable to facilitate proper use and operation. The steps of attaching,
impacting, and removing or attaching the portions of the automotive wheel assemblies to be
manipulated by Applicants' claimed invention are more easily possible and more readily

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effective with Applicants' support extension, which is specifically recited in rejected Claim 1 and elsewhere in the written description of the invention.

Since neither Barlett '968 nor any of the other references of record here show, describe, teach, suggest, or even motivate those in the art to reach Applicants' invention as claimed in

5 Claim 1, Applicants submit that the examiner rejection thereto must be withdrawn.

In addition to these noted limitations of Barlett's '968 device, Applicants further distinguish their inventive embodiments in Claim 2, where in addition to each element of Claim 1, Applicants further recite:

10 *wherein at least one of the plurality of engagement hole
patterns is selected from the group including (a) a four
engagement hole pattern adapted to mate with at least one OEM
component engagement pattern, (b) a six engagement hole pattern
adapted to mate with at least one OEM six lug pattern, and (c) an
15 OEM eight lug pattern.*

Unlike Applicants' claimed invention, the device of Barlett '968 is limited to embodiments that not only fail to recite or contemplate Applicants' support extension, but also are notably silent as to Applicants' 4, 6, and 8 hole patterns, and other new and novel elements and features also described, contemplated, and recited by Applicants in the instant application.
20 Accordingly, the examiner's rejection of Claim 2 is also believed to be improper and should be withdrawn.

§ 102 Rejections of Claims 5 to 7

In rejected Claims 5 through 7, Applicants continue to distinguish their embodiments from the prior attempts by reciting in Claim 5 each element of Claim 1 as well as:

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*wherein the interchangeable rotor securing tool is adapted
to be coupled to the rim mounting surface to establish a distributed
load transfer interface with the automotive wheel assembly
whereby the operational impact load is substantially uniformly
transferred to the rim mounting surface.*

An additional distinguishing feature is recited in Applicants' Claim 6, which recites each element of Claim 1 and:

*a releasably engagable retainer assembly that includes at
least one fastener adapted to be received by the vehicle chassis
and to loosely retain the wheel assembly to the vehicle chassis
during operation of the removal apparatus.*

Continuing their efforts to clearly state the nature of the invention in ways that distinguish the prior art attempts, Applicants also in Claim 7 recite each distinguishing feature of Claims 1 and 6 as well as:

*wherein the at least one fastener is selected from the group
including a retainer bolt, an expandable bolt, a locking shear pin,
a flexible strap, and combinations thereof.*

Turning again to the additional failed teachings of Barlett '968, Applicants further note that in addition to the above-described short-comings of Barlett's '968 device, Barlett also misses Applicants' embodiments in that the '968 devices do not contemplate, teach, suggest, or motivate others to reach Applicants' claimed support extension, which in the context of the distributed load transfer interface of Claim 5, Applicant's support extension and various hole patterns enable the level and uniform application of force to remove and attach the more difficult to service, and previously almost impossible to service, automotive wheel assemblies. Absent Applicant's claimed establishment of the distributed load transfer interface, such wheel

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assemblies presently most often must be cut away from the automotive vehicle with electric and high-temperature torches.

Also missing from Barlett's '968 teachings as well as the other references of record, are Applicant's new and novel releasably engagable retainer assemblies of Claim 6 and other claims, which are highly desirable for use and operation of Applicant's inventive devices. In view of Applicant's particularly intended automotive applications, which require the more robustly constructed configurations of the invention, the steps of attachment, operation, and removal of Applicants' devices are readily accomplished with Applicants' claimed support extensions as well as the claimed releasably engagable retainer assemblies, among other features. The additional elements recited in Claim 7 only serve to further illustrate the various embodiments of Applicants' claimed releasably engagable retainer assemblies, which in turn only further distinguishes Applicant's novel embodiments of the invention from the short-comings of the prior art cited here and known to those skilled in the art.

§102 Rejections of Claims 17-22

Turning next to the examiner's rejections of Claims 17 through 22, Applicant notes that independent Claim 17 is directed to, among other novel features and elements, a means for supporting the receiving means projecting distally from the transferring means, and a means for releasably retaining the removing means to the wheel assembly during operation. Barlett '968 does not describe, suggest, or motivate others to make, use, and sell, among other features and elements and capabilities, Applicant's supporting means or reliable retaining means, each of which have ample enabling alternative disclosures in the written description of the embodiments of the invention. Claims 18 through 22 each depend from Claim 17 and include each and every element recited therein. The additionally recited features, elements, and capabilities described

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by Applicant's in each of Claims 18 through 22 serve to only further distinguish what Applicants assert to be the various embodiments of their invention over the known prior art devices and attempts.

Conclusion of Response to §102 Anticipation Rejections

5 It is well established that anticipation requires that each and every element of the applicant's claimed invention must be disclosed in a single prior-art reference. In re Paulson, 30 F.3d 1475, 31 U.S.P.Q.2d 1671 (Fed. Cir. 1994); In re Spada, 911 F.2d 705, 15 U.S.P.Q.2d (BNA) 1655 (Fed. Cir. 1990). It follows that absence from the reference of any claimed element negates anticipation. Koster Speedsteel AB v. Crucible Inc., 793 F.2d 1565, 230 U.S.P.Q. (BNA) 81 (Fed. Cir. 1986). Anticipation will only arise where the description of the invention,
10 as defined by appropriately construed claims, is identically shown in as complete detail as is contained in the applicant's patent claim. Glaverbel S.A. v. Northlake Mkt'g & Supp., Inc., 45 F.3d 1550, 33 U.S.P.Q.2d (BNA) 1496 (Fed. Cir. 1995); Richardson v. Suzuki Motor Co., 868 F.2d 1226, 9 U.S.P.Q.2d (BNA) 1913 (Fed. Cir. 1989).

15 Applicant submits that many deficiencies in Barlett's '968 reference are described here and many of Applicants' new and novel distinguishing features have been further described in direct contrast to the Barlett's 968 short-comings. For each of these detailed reasons that describe the short-comings of the prior art, specifically including Barlett '968, Applicant submits that the examiner's rejections to Claims 1, 2, 5-7, and 17-22 are improper and must be
20 withdrawn.

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Rejection of Claim 3, under 35 U.S.C. §103 as Obvious In View of Barlett '968

The examiner also rejects Claim 3 as being an obvious variant of Barlett '968 and states that Applicants' number of fastening holes is no more than an obvious design choice absent a showing of criticality for this feature. As stated herein above, Applicants have demonstrated that
5 their inventive device implements the claimed arrangements of fastening holes for a number of critical capabilities, including, for purposes of example but not for purposes of limitation, attaching, operating, and removing the inventive device, as well as for establishing Applicants' recited distributed load transfer interface.

Further, the features and elements recited in Claim 3 are described in connection with
10 each and every element of Claim 1, which results in features and capabilities that in combination are not taught, suggested, or otherwise obvious to those skilled in the art. In contrast, in view of the less capable designs of Barlett '968 and the other references of record in the instant application, Applicants assert that the prior art teaches away from the features and capabilities of the invention because they do not contemplate the more difficult problems solved by and
15 applications intended for use by Applicants' claimed invention.

Applicants also take issue with the examiner's contention that "one skilled in the art would be motivated to select a number of holes commensurate with the identical number of wheels on the automotive wheel assembly." Applicants contend that the inventive claimed assembly is not intended to have the examiner's perceived "number of holes commensurate with
20 the identical number of wheels on the automotive wheel assembly." Applicants incorporate here and reassert each of the preceding reasons why Barlett '968 falls far short of teaching, suggesting, or motivating others to reach Applicants' invention.

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The law has long been settled that the test for obviousness under 35 U.S.C. § 103 mandates that the references, taken as a whole, must suggest the invention to one of ordinary skill in the art. Medtronic, Inc. v. Cardiac Pacemakers, Inc., 721 F.2d 1563, 220 U.S.P.Q. (BNA) 97 (Fed. Cir. 1983). A retrospective view of inherency is not a substitute for some teaching or suggestion which supports the selection and use of the various elements in the particular claimed combination. That which is inherent is not necessarily known. Obviousness cannot be predicated on what is unknown. In re Rijckaert, 9 F.3d 1531, 28 U.S.P.Q.2d (BNA) 1955 (Fed. Cir. 1993); In re Newell, 891 F.2d 899, 13 U.S.P.Q.2d (BNA) 1248 (Fed. Cir. 1989). It is impermissible within the framework of §103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. Bausch & Lomb, Inc. v. Barnes-Hind, Inc., 796 F.2d 443, 230 U.S.P.Q. (BNA) 416 (Fed. Cir. 1986); In re Hedges, 783 F.2d 1038, 228 U.S.P.Q. (BNA) 685 (Fed. Cir. 1986).

With the preceding facts, reasoning, and considerations in mind, Applicants submit that in fact Barlett '968 does not disclose, teach, or even suggest Applicants' interchangeable rotor securing tool being formed with a five engagement hole pattern that is adapted to mate with at least one OEM five lug pattern as Applicants contemplate in Claim 3, which in connection with the other features and elements claimed and described by Applicant achieve Applicants' heretofor unknown and unavailable wheel assembly removal apparatus. Accordingly, Applicants again submit that the examiner's §103 obviousness rejection of Claim 3 is implausible if not improper and should be withdrawn.

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Rejection of Claims 4, & 10 - 14, under 35 U.S.C. §103 as Obvious Over Barlett '968 in View of
Comer '012

The examiner next rejects Claim 4 as noted. Applicants' Claim 4 depends from Claim 1 and further recites a dual hand operation mechanism, which is shown in part in Comer '012.

5 However, Applicants note that neither Barlett '968, Comer '012, nor any of the other references of record, teach, suggest, or would motivate others to combine the noted references to reach Applicants' embodiments as claimed in Claim 4. The distinguishability of Applicants' invention of Claim 4 should be further apparent to those skilled in the art in view of the preceding discussion wherein Applicants specifically illustrate how the various components of Applicants' inventive embodiments of the invention work together to accomplish what has been impossible with prior art devices.

Notably, among many other features and elements, the invention of Claim 4 is directed to Applicants' noted dual handle mechanism as well as the novel extension support and other noted elements, which together enable attachment and removal of automotive wheel assemblies that previously could only be serviced with electric or high-temperature torch cutting tools use to cut away the items to be serviced. In contrast to the dual handle arrangements of the prior art devices such as Comer '012 device, Applicants' dual handle mechanism is implemented in combination with the support extension, among other inventive features and capabilities so as to effect automotive wheel assembly servicing without the need for torch and electric cutting tools.

20 Accordingly, Applicants submit that the examiner's comparison of Applicants' Claim 4 to the prior art illustrated by Barlett '968 and Comer '012 is without merit. Additionally, Applicants assert that the even if those having skill in the art were motivated by the combination of Barlett '968 and Comer '012 to assemble a device resembling in part Applicants' claimed

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invention of Claim 4, the facsimile device would not work as Applicant's teach because Applicant's support extension significantly improves the operational capability of Applicants' apparatus in that the operator can properly align the inventive apparatus before application of force so as to serve a part in establishing the distributed load transfer interface. Thus, those skilled in the art should be able to understand that Applicants' dual handle mechanism operates in conjunction with Applicants' other novel features to further augment proper alignment of the inventive apparatus during attachment and use.

In view of these immediately preceding considerations, as well as the reasoning and facts set forth elsewhere herein, Applicants submit that the examiner rejection of Claim 4 is also improper and should be withdrawn. We now turn to the examiner's rejections of Claims 10 to 14, which are rejected on grounds identical to those propounded in connection with Claim 4. Here again, Applicants note that neither, Barlett '968, Comer '012, nor any of the other references of record here suggest, teach, disclose, or otherwise motivate those skilled in the art to reach Applicant's claimed invention.

Applicants' independent Claim 10 is directed to an automotive wheel assembly removal apparatus that incorporates, among other features, elements, and embodiments, the previously described support extension, a dual hand operation mechanism, and a releasably engagable retainer assembly, which together establish heretofor unavailable capabilities that significantly advance the state of the art. With the noted Barlett and Comer references, as well as the other references of record here, failing to teach innovative features and the resulting capabilities of Applicants' invention, none of the references of record can be used to support the examiner's rejections of Claim 10.

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Claims 11, 12, 13, and 14 each depend from Claim 10 and include each element recited therein, as well as additional features, elements, and capabilities that have already been expounded upon by Applicants. The recitation of these additional items further distinguishes Applicants' invention from the attempts of the prior art. This fact is especially pronounced in view of the limitations of Barlett '968 to the field of art of lawn mowers, and the limitation of the Comer '012 device to axle pulling, the latter of which is very different from the application contemplated by the instant invention. In further contrast to Comer '012, Applicants' inventive embodiments are directed applications where automotive wheel assemblies have seized together. In this specific application, Applicants' apparatus is improved over the prior art in that it includes, among other features and capabilities, the already noted and claimed support extension, dual handle mechanism, and releasably engagable retainer assembly, which in part and together enable successful use, operation, and removal and attachment of the automotive wheel assemblies where all other devices have failed.

For each of these and in view of the reasoning and analysis described elsewhere herein, Applicants maintain that the examiner's rejections of Claims 10 to 14 are improper and must be withdrawn.

Rejection of Claim 8 and 23 under 35 U.S.C. §103 as Obvious Over Barlett '968 in View of Pool '450

The examiner next rejects Applicants' Claims 8 and 23 on obviousness grounds because Pool '450 teaches an axle puller that incorporates a flexible cable. In marked contrast to the flexible cable-based axle puller cable disclosed by Pool, and the lawn mower servicing tool

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taught by Barlett, Applicants' automotive wheel assembly removal apparatus invention of Claim 8 is directed to:

5 *a releasably engagable retainer assembly that includes at least one fastener adapted to be received by the vehicle chassis and to loosely retain the wheel assembly to the vehicle chassis during operation of the removal apparatus ... wherein the at least one fastener includes at least one flexible and adjustable retainer device.*

Alternative variations of Applicants' embodiments of the invention of Claim 23 are also directed to modifications that incorporate, among other features and capabilities:

10 *releasably retaining means includes at least one means for fastening adapted to be received by a vehicle chassis and to loosely retain the wheel assembly to the vehicle chassis during removal ... wherein the at least one means for fastening includes*
15 *at least one flexible and adjustable retainer device.*

Although the examiner's cited Pool '450 reference describes a flexible cable, neither Pool '450, Barlett '968, nor any of the other references of record teach, disclose, or otherwise Applicant's claimed retainer or retaining means in the configurations exemplified in Applicants' written description and figures illustrating the invention. Pool's '450 flexible cable is restricted to a cable that is used for pulling the axle of a front wheel of a constant velocity joint of an automobile having a front wheel drive transaxle.

In the difficult servicing applications contemplated by the embodiments of the instant invention, Pool's device would not operate as intended. Instead of enabling the safe removal of the types of wheel assemblies noted in the instant application, Pool's '450 puller would have no application for Applicant's intended purpose of Claims 8 or 23. Neither can Pool's '450 device solve the problems addressed by Applicant's apparatus overall. Even if Poole's '450 flexible

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cable could be modified to operate with the device described by Barlett '968, the hybrid prior device asserted by the examiner still could not achieve the results effected by the invention of Claims 8 and 23.

The specific elements contemplated by Applicants in these claims enables retention of the wheel assembly against the vehicle chassis during attachment and after separation and removal there from so as to prevent the unattached, or separated and removed wheel assembly from falling freely away from the vehicle chassis. This feature protects the wheel assembly from damage and has other benefits to the technician as also noted in the application at issue here. Although many possible embodiments are contemplated and taught by Applicants, Claims 8 and 23 are directed only to certain of such variants of these other alternative configurations explicated in the instant written description and drawings and illustrations of the invention.

Since Pool '450 and Barlett '968 have the noted short-comings of disclosure and teachings, and since neither contain any suggestion or motivation to combine the elements combined by the examiner, and since none of the other references of record would motivate those skilled in the relevant arts to combine the elements asserted in the rejection of Claims 8 and 23, Applicants assert that the rejections are improper and must be withdrawn.

Rejection of Claim 15 under 35 U.S.C. §103 as Obvious Over Barlett '968 in
View of Comer '012 and further in view of Pool '450

Like Applicants' Claims 8 and 23, among others, rejected Claim 15 is directed to embodiments that incorporate Applicants' "at least one flexible and adjustable retainer device," which is specifically configured to retain the to-be-installed or to-be-removed automotive wheel assembly against the vehicle chassis during use and operation of the inventive apparatus. Claim

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15 depends from independent Claim 10, and therefore also incorporates Applicant's other improvements including, for purposes of example without limitation, the "support extension," among other features and improvements. For the same reasons set forth in connection with Applicants' traversal of the rejections of Claims 4, 8, 10-14, and 23, Applicants submit that the devices of Barlett '968, Comer '012, and Pool '450 do not teach, suggest, or offer any motivation to those skilled in the art to combine either these specifically cited references, or any of the other references of record, so as to achieve the invention as claimed by Applicants.

As set forth in connection with the preceding discussion of the distinguishing features of Applicants' claimed embodiments of the invention, Applicants maintain that the rejection of Claim 15 on obviousness grounds over Barlett in view of either Comer, Pool, or the other references of record here is implausible, unsupported, and therefore improper. As such, the examiner's rejection cannot stand and must be withdrawn.

Evidence of Commercial Success and Industry Recognition

In further support of non-obviousness, if needed to further advance prosecution of the instant application, Applicant's submit that evidence of commercial success and industry recognition exists, which attests to and establishes sales of the inventive device as claimed, and recognition by those skilled the relevant arts and by those employed in the relevant industry, as to the innovation and novelty of Applicants' claimed invention. If deemed useful or necessary by the examiner, Applicants request that the examiner contact Applicant's undersigned representative at (614) 933-0100 to obtain this additional evidence for entry in the file.

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Allowable Subject Matter

The Examiner now possess substantial evidence of non-anticipation and non-obviousness that Applicants assert establishes that all now pending claims are allowable over the prior art now of record in the instant application. Additionally, the preceding discussion and argument is
5 believed by Applicant to distinguish all of the cited art and the non-cited art of record such that all of the pending claims as amended are believed to now be in condition for an early notice of allowance.

Conclusion

10 Entry of the above amendments to the Specification, Claims, and Drawings is requested. It is believed that Claims 1 through 24 distinguish over the prior art of record in this case and that the amendments described hereinabove do not constitute new matter as all such information was previously disclosed in the drawings, specification, and claims of this application. Accordingly, withdrawal of the examiner's objections and rejections, and an early allowance of
15 the currently pending claims are respectfully solicited. The examiner is invited to telephone the undersigned to discuss the preceding amendments and arguments for purposes of expediting further action in this application. In the event that the Examiner does not find Applicant's arguments to be well-taken and persuasive, the under-signed Applicants' representative hereby requests a formal telephonic interview to discuss the instant response and amendment, and to

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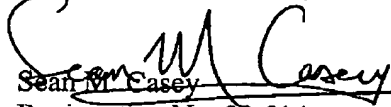
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present additional arguments and the additional evidence of non-obviousness prior to issuance of any final office action.

Respectfully submitted,

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**APPENDIX A TO APPLICANT'S AMENDMENT & RESPONSE TO FIRST OFFICE
ACTION - MARKED UP COPY OF ORIGINAL CLAIMS**

5. (AMENDED) The apparatus according to Claim 1, wherein the interchangeable
5 rotor securing tool is adapted to be coupled to the rim mounting surface to establish a distributed
load transfer interface with the [automatic] automotive wheel assembly whereby the operational
impact load is substantially uniformly transferred to the rim mounting surface.

13. The apparatus according to Claim 10, wherein the interchangeable rotor securing
10 tool is adapted to be coupled to the rim mounting surface to establish a distributed load transfer
interface with the [automatic] automotive wheel assembly whereby the operational impact load is
substantially uniformly transferred to the rim mounting surface.